

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Hong	Team: Team # 5	CCRB Case #: 200600773	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/25/2005 10:30 PM, Monday, 06/20/2005 12:00 AM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 11/25/2006	EO SOL 11/25/2006	
Date/Time CV Reported Wed, 01/18/2006 2:06 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Wed, 01/18/2006 2:06 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jorge Gonzalez	14370	915820	040 PCT
2. POM Christopher Vanweddinger	31124	919808	040 PCT
3. LT Robert Vanhouten	00000	896067	040 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Colin Lawton	29465	904339	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christopher Vanweddinger	Abuse: On May 25, 2005, PO Christopher Vanweddinger stopped and questioned § 87(2)(b)	
B.POM Jorge Gonzalez	Abuse: On May 25, 2005, PO Jorge Gonzalez stopped and questioned § 87(2)(b)	
C.POM Christopher Vanweddinger	Abuse: On May 25, 2005, PO Christopher Vanweddinger strip-searched § 87(2)(b)	
D.POM Jorge Gonzalez	Abuse: On May 25, 2005, PO Jorge Gonzalez strip-searched § 87(2)(b)	
E.LT Robert Vanhouten	Abuse: On June 20, 2005, Lt. Robert Vanhouten supervised the entry of § 87(2)(b) in the Bronx.	
F.POM Christopher Vanweddinger	Abuse: On June 20, 2005, PO Christopher Vanweddinger threatened to notify Administration for Children's Services.	

Synopsis

§ 87(2)(b) of § 87(2)(b) in the Bronx, filed his complaint with the CCRB via mail. He provided a notarized statement that was received by the CCRB on January 18, 2006, which was approximately eight months after the initial incident date [encl. 7a-l]. This case was initially assigned to Investigator Timothy Hartnett. Due to his departure from the CCRB, the case was assigned to the undersigned on July 17, 2006.

On May 25, 2005, at approximately 10:20 PM, § 87(2)(b) was stopped in front § 87(2)(b) § 87(2)(b) in the Bronx by PO Christopher Vanweddinger and PO Jorge Gonzalez (Allegations A and B). While arresting § 87(2)(b) PO Vanweddinger grabbed § 87(2)(b) by the arm and pushed him against a wall. The officers then transported him to the stationhouse. § 87(2)(b) alleged that at the stationhouse, PO Vanweddinger and PO Gonzalez instructed § 87(2)(b) to remove all his clothing inside the stationhouse bathroom (Allegations C and D). After searching each article of clothing, they handed it back to § 87(2)(b).

On June 20, 2005, at approximately 11:30 AM, officers, identified through the investigation as Capt. Robert Vanhouten, who was a lieutenant at the time, PO Christopher Vanweddinger, PO Jorge Gonzalez, and PO Colin Lawton, went to § 87(2)(b) apartment at § 87(2)(b) in the Bronx and arrested § 87(2)(b). Prior to the arrest, an officer, identified through the investigation as Capt. Robert Vanhouten, grabbed § 87(2)(b) by the arm and pulled him out of the apartment. Capt. Robert Vanhouten and PO Vanweddinger, entered § 87(2)(b) apartment. Capt. Robert Vanhouten conducted a walkthrough of the apartment (Allegation E). § 87(2)(b) was transported to the 40th Precinct stationhouse. At the stationhouse, PO Vanweddinger threatened to notify the Administration of Child Services (ACS). An unidentified officer, who claimed to be the “youngest captain” in the NYPD, also threatened to notify ACS while § 87(2)(b) being debriefed (Allegation F).

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) who is a white male that stands 5'8" and weighs 180 pounds, was interviewed by Inv. Hartnett on Riker's Island on February 2, 2006 [encl. 9a-d]. His statements to the CCRB are summarized below § 87(2)(g)

On May 25, 2005 at about 10:20 PM, § 87(2)(b) went to visit a friend, § 87(2)(b), at § 87(2)(b) home located at § 87(2)(b) § 87(2)(b) in the Bronx. § 87(2)(b) stayed at his friend's house for about ten minutes then left to buy a pack of cigarettes at a bodega down the street. As § 87(2)(b) left the apartment building and walked to the store he noticed two police officers, identified through the investigation as PO Jorge Gonzalez and PO Christopher Vanweddinger, in a marked patrol car that was parked at the corner of § 87(2)(b) § 87(2)(b).

§ 87(2)(b) went to the store, bought his cigarettes and began to walk back to § 87(2)(b) home. As he neared the apartment building he noticed that the officers were looking at him as they started driving towards him. When § 87(2)(b) reached building, the officers stopped their car next to him, exited the car and approached him. As they approached, the officers showed § 87(2)(b) a flyer and asked if he was the man on the flyer. § 87(2)(b) looked at the flyer and confirmed to the officers that he was the man in the photo and asked them what was going on. The officers stated that they needed to question § 87(2)(b) and he replied that he had no problem with that. PO Vanweddinger started frisking § 87(2)(b) and reached into his front pants pockets. In response, § 87(2)(b) grabbed PO Vanweddinger's hands, pulled them out of his pockets and took a step back from the officers due to his surprise. PO Vanweddinger then grabbed § 87(2)(b) arms, turned his body around, slammed him against the front door of the building and placed him into handcuffs. Both officers walked § 87(2)(b) to their car, placed him in the back and transported him to the 40th Precinct stationhouse.

At the stationhouse, PO Vanweddinger and PO Gonzalez took § 87(2)(b) to a bathroom and had him remove his clothes. They then searched his clothes and handed them back to him. During this search both officers asked § 87(2)(b) about burglaries in area. § 87(2)(b) insisted that he did not know anything about any burglaries. § 87(2)(b) was placed in a cell in the detective squad of the stationhouse and the officers removed his cell phone, house keys and a cap he was wearing. While he was in the cell, PO Vanweddinger and PO Gonzalez asked § 87(2)(b) who lived at § 87(2)(b). He did not want to get § 87(2)(b) involved so he refused to provide § 87(2)(b) name.

The next morning, an unidentified detective, came into the cell and questioned § 87(2)(b) about the same burglaries and he again insisted that he knew nothing about any burglaries. Later that day, § 87(2)(b) was arraigned, charged § 87(2)(a) 160.50. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

On a daily basis, between May 26, 2005 and June 19, 2005, PO Vanweddinger and PO Gonzalez sat in an unmarked green sedan that was parked across the street from § 87(2)(b) home located at § 87(2)(b) in the Bronx.

On June 20, 2005, at about 10:30 a.m., PO Vanweddinger and PO Gonzalez knocked on § 87(2)(b)'s apartment door. § 87(2)(b) answered the door and the officers said they wanted to question him again. § 87(2)(b) stated that he could not come to the stationhouse because he was babysitting his children. He explained that his wife would be home in few hours and he'd willing come in for questioning once she returned. The officers left the location.

At about 11:30 a.m. on that same day, PO Vanweddinger and PO Gonzalez knocked on § 87(2)(b) door again. This time, a very large officer, identified as PO Colin Lawton, accompanied them. The three officers were standing in the hallway of § 87(2)(b)'s building while § 87(2)(b) stood in the front doorway of his apartment. § 87(2)(b) daughter was holding on to his leg at the time. From down the building's hallway, § 87(2)(b) heard a fourth officer, identified through the investigation as Captain Robert Vanhouten who was the Special Operation Lieutenant at the time of the incident, say, § 87(2)(b) "can you step outside?" § 87(2)(b) could not see Capt. Vanhouten and asked what was going on. Capt. Vanhouten then came down the hallway, grabbed § 87(2)(b) arm and pulled him out of his apartment. Capt. Vanhouten then turned § 87(2)(b) body around, pulled his arms behind his back and handcuffed him.

PO Vanweddinger, PO Gonzalez, Capt. Vanhouten pulled § 87(2)(b) into his living room while PO Lawton stood at the front doorway. PO Gonzalez stayed with § 87(2)(b) while PO Vanweddinger and Capt. Vanhouten walked throughout his house. PO Vanweddinger and Capt. Vanhouten looked into the kitchen and each of the children's bedrooms but did not go through anything. While this was going on, § 87(2)(b) told his § 87(2)(b) daughter to wake up § 87(2)(b) son's § 87(2)(b) girlfriend.

A minute or so later, PO Gonzalez starting walking § 87(2)(b) out of the apartment and PO Vanweddinger and Capt. Vanhouten followed him out. As they reached the front door, § 87(2)(b)

approached the officers. One of the officers asked § 87(2)(b) if they could have her phone number so he could call and check on the young children. § 87(2)(b) refused to give the officer her phone number and the officers and § 87(2)(b) left the apartment. As they left, the officers explained that § 87(2)(b) had been seen behind a building with a flashlight tampering with a door.

§ 87(2)(b) was taken to the 40th Precinct stationhouse and he was again placed in a cell in the detective squad of the stationhouse. While in the cell PO Vanweddinger questioned § 87(2)(b) about a string of burglaries in the area and he told PO Vanweddinger that he did not know about any burglaries. At one point, PO Vanweddinger stated that if § 87(2)(b) did not cooperate that he was going to call the ACS and inform them that § 87(2)(b) wife and children were living with a convicted felon and ACS would take his children away. PO Vanweddinger also told § 87(2)(b) that they were waiting for a “young captain” to come and speak with him. For the next few hours, PO Vanweddinger intermittently asked § 87(2)(b) questions about burglaries and each time he stated that he did not know anything about them.

At about 6:00 PM, § 87(2)(b) was taken from his cell and placed in a nearby room. An unidentified officer in dress clothes entered the room and introduced himself as a “captain.” § 87(2)(b) did not believe this officer was a captain because his shield look different than those of other police captains § 87(2)(b) had met before. The “captain” asked about burglaries but § 87(2)(b) refused to answer any of his questions. At one point, the “captain” told § 87(2)(b) that the police would call ACS about his children if he did not cooperate. § 87(2)(b) told the officer to leave his children out of the conversation. The “captain” went back to asking about the burglaries and § 87(2)(b) continued to refuse to answer any questions. After about 20 minutes, § 87(2)(b) was taken back to his cell.

The next day, § 87(2)(b) was taken to the court for arraignment. On his way out of the stationhouse, § 87(2)(b) saw the “captain” wearing a blue uniform. At court § 87(2)(b) was arraigned, charged with § 87(2)(a) 160.50 . [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] .

§ 87(2)(b) 12-page handwritten letter was notarized on September 27, 2005 and was then mailed, according to his cover letter, January 16, 2006. According to his written letter, § 87(2)(b) stated that on May 25, 2005, he rang the doorbell to his friend’s apartment, prior to the stop conducted by PO Vanweddinger and PO Gonzalez. He made no mention of a “frisk” in his letter, but instead, stated that PO Vanweddinger threw him against the wall following § 87(2)(b) acknowledgement of the flyers. Furthermore, after the arrest of § 87(2)(b) his letter stated that PO Vanweddinger and PO Gonzalez entered the building and began searching the walls for an unknown reason after gaining entrance by ringing § 87(2)(b) apartment doorbell. He does not state he was strip-searched in his letter.

§ 87(2)(g) [REDACTED]

Results of Investigation

Officer statements are presented based on the date of incident.

May 25, 2005

PO Jorge Gonzalez, of the 40th Precinct, provided a statement to the Bronx Supreme Court Criminal Division as his supporting deposition to the Criminal Court Complaint concerning § 87(2)(b) arrest [encl. 13a]. § 87(2)(a) 160.50 [REDACTED]

Subject Officers

PO Christopher Vanweddinger and PO Jorge Gonzalez of the 40th Precinct

§ 87(2)(g) [REDACTED] PO Christopher

Vanweddinger is a white male who stands 5'11" and weighs 185 pounds. PO Jorge Gonzalez is a Hispanic male who stands 5'9" and weighs 200 pounds.

On May 25, 2005, PO Christopher Vanweddinger and PO Jorge Gonzalez were working from 8:00 PM to 4:35 AM. They were assigned to the Burglary Apprehension Team (BAT). They were in uniform and were assigned marked patrol car #2283.

PO Vanweddinger did not have his memo book during his CCRB interview. PO Gonzalez's memo book indicates that at 10:15 PM, the officers observed a Hispanic male entering § 87(2)(b) At 10:21 PM, they had made an arrest § 87(2)(a) 160.50

On May 25, 2005, at approximately 10:30 PM, the officers were on patrol concerning an ongoing burglary pattern. PO Gonzalez provided more specific details stating that the burglaries involved suspects entering commercial establishments through the rooftops. He further stated that § 87(2)(b) neighbors several of the affected commercial establishments. So although they were watching the entire area, they were watching that particular building, because it led to the rooftops of several of those commercial establishments. PO Gonzalez stated that PO Vanweddinger first noticed § 87(2)(b) entering § 87(2)(b) and PO Vanweddinger indicated that he recognized § 87(2)(b) from a prior incident. PO Vanweddinger stated that PO Gonzalez observed § 87(2)(b) first as he was leaving the building. PO Vanweddinger stated indicated that they did not employ the use of flyers on that date, because although § 87(2)(b) was a suspect in the investigation, he was not "wanted." He was also aware that § 87(2)(b) did not reside in that apartment due to § 87(2)(b) status as a suspect. Therefore, the officers approached § 87(2)(b) with the purpose to confirm the legality of his presence inside that building. According to PO Gonzalez, as the officers approached, § 87(2)(b) stepped out of the building, having never opened the second set of the doors. The officers began to question § 87(2)(b) but § 87(2)(b) refused to answer any questions. They handcuffed him without incident and arrested him § 87(2)(a) 160.50. PO Gonzalez stated that he searched § 87(2)(b) at the location. § 87(2)(b) was then transported to the stationhouse. § 87(2)(b) was not strip-searched at the stationhouse.

June 20, 2005

Subject Officers

Captain Robert Vanhouten, who is currently assigned to PSA 2, was interviewed at the CCRB on August 31, 2006 [encl. 11a-b]. Capt. Vanhouten is a white male who stands 5'10" and weighs 205 pounds. On June 20, 2005, Captain Vanhouten, who was the Special Operations Lieutenant for the 40th Precinct at the time, was working from 9:00 AM to 5:35 PM. For the arrest of § 87(2)(b) on June 20, 2005, he was working with the Burglary Apprehension Team which consisted of PO Christopher Vanweddinger, PO Jorge Gonzalez, and PO Colin Lawton. He was most likely in plainclothes and did not recall which RMP he was assigned. He had no memo book entries regarding the incident [encl. 10a-b].

At approximately 11:30 AM on June 20, 2005, Captain Vanhouten, PO Vanweddinger, PO Lawton, and PO Gonzalez went to § 87(2)(b) in the Bronx to arrest § 87(2)(b). Prior to leaving, one of the officers from the Burglary Apprehension Team articulated the probable cause to arrest § 87(2)(b). Capt. Vanhouten did not recall the specifics, but believed that the officer had observed § 87(2)(b) in a commercial area during a time of night when the business was not open. He further believed that the officers assigned to the BAT had "reached out" to the business establishment owner to confirm that § 87(2)(b) was not permitted on the premises. Capt. Vanhouten confirmed that after hearing the details, he believed that the officers had probable cause to arrest § 87(2)(b) § 87(2)(a) 160.50

Once they arrived, the officers entered the apartment building, which Capt. Vanhouten stated gave the precinct "much work." When asked to elaborate, Capt. Vanhouten stated, "Narcotics." He did not recall which officer knocked on the door and spoke with § 87(2)(b) due to the extended time that had elapsed. § 87(2)(b) answered the door. There were also minors present inside the apartment, but Capt. Vanhouten did not recall when he became aware of the minors. Capt. Vanhouten also did not recall how many minors were present, but confirmed that there was more than one child. § 87(2)(b) "walked" out of the apartment and was handcuffed right outside the apartment door. Capt. Vanhouten did not recall how § 87(2)(b) was brought outside of his apartment. There was no struggle and nothing concerning the handcuffing "stood

out” in Capt. Vanhouten’s recollection. He also indicated that since there were minors in the house, there was a child care issue. Capt. Vanhouten confirmed that officers entered the apartment for the sole intention of safeguarding the minors before they transported § 87(2)(b) to the stationhouse. He believed all of the officers entered the apartment. Capt. Vanhouten further confirmed that he conducted a walkthrough of the bedrooms to gather the children. He did not conduct a search, such as opening any drawers. If there had been no minors at the location, they would have arrested § 87(2)(b) and left the apartment without ever entering. Arrangements were made for an adult, of whom § 87(2)(b) approved, to watch the children. Capt. Vanhouten did not recall who or how the person was called, or where this person came from. He did not recall the race or gender of this person either. § 87(2)(b) was transported back to the stationhouse.

Capt. Vanhouten did not recall if § 87(2)(b) was debriefed. He did not recall if he was present for the debriefing or who conducted the debriefing. Capt. Vanhouten did not recall if he saw § 87(2)(b) again that day. No officer threatened § 87(2)(b) with a threat to notify ACS if he did not cooperate.

Captain Vanhouten stated that he did not recall if they discussed what they would do if § 87(2)(b) did not come out of the apartment. However, he stated that he would not have forced an entry to arrest § 87(2)(b) for a misdemeanor. The strategy was to have § 87(2)(b) exit the apartment voluntarily. Capt. Vanhouten did not recall meeting § 87(2)(b) prior to this incident.

PO Christopher Vanweddinger, of the 40th Precinct, was interviewed at the CCRB on September 26, 2006 [encl. 12a-b]. On June 20, 2005, PO Vanweddinger was working a day tour and was assigned to the Burglary Apprehension Team. He worked a day tour, but could not recall any other specifics. PO Vanweddinger did not have his memo book during his CCRB statement.

PO Vanweddinger, with PO Lawton, PO Gonzalez, and Lt. Vanhouten, went to § 87(2)(b) residence to arrest him based on probable cause from an incident that PO Vanweddinger observed on a prior tour. Upon arriving at the apartment building, they entered the hallway and knocked on his apartment door. § 87(2)(b) opened the door. PO Vanweddinger stated that he noticed that children of varying age were present. There was also an 18 or 19 year old girl, identified by § 87(2)(b) as § 87(2)(b), § 87(2)(b) there as well. The officers spoke with him and asked him to step out of the hallway to arrest him, because “nobody wants to do that in front of his children.” § 87(2)(b) stepped out of the apartment and he was handcuffed. There was no struggle. No officer grabbed him and pulled him out of the building. All officers remained together throughout the incident.

At the stationhouse, § 87(2)(b) was most likely debriefed, but PO Vanweddinger did not recall if he was present for the debriefing. PO Vanweddinger denied threatening to contact ACS if § 87(2)(b) did not cooperate, nor did he observe any other officer do so. No officer entered the apartment since there was no need to do so. They left the children in the care of § 87(2)(b), § 87(2)(b) therefore, officers had no issues with the minors.

PO Jorge Gonzalez, of the 40th Precinct, was interviewed at the CCRB on June 20, 2006 [encl. 15a-b]. On June 20, 2005, PO Gonzalez was working with the Burglary Apprehension Team with PO Vanweddinger, PO Lawton, and Capt. Vanhouten. He did not recall his exact tour, his motor vehicle assignment, or whether he was in uniform. He had no memo book entries regarding the incident.

The Burglary Apprehension Team, which included PO Gonzalez, PO Vanweddinger, PO Lawton, Capt. Vanhouten went to § 87(2)(b) residence and knocked on the door. PO Gonzalez did not recall who answered. PO Vanweddinger and Capt. Vanhouten went in the door and stood just inside the doorway, while PO Gonzalez stood in the hall with his partner PO Lawton. PO Gonzalez could not recall everything that was said, but they explained briefly that § 87(2)(b) was being arrested for a prior incident. § 87(2)(b) complied with no problems. PO Gonzalez does not know what the prior event was that he was being arrested for, possibly trespassing, but he was not sure. As a courtesy they asked § 87(2)(b) to step outside so he would not be handcuffed in front of his family. PO Gonzalez recalled seeing children inside the house, but stated a woman, possibly a girlfriend or wife, was able to watch the children after they arrested § 87(2)(b). There were no difficulties arresting § 87(2)(b) and § 87(2)(b) was not pushed or pulled. § 87(2)(b) was taken back to the precinct. PO Gonzalez did not witness § 87(2)(b) being

questioned about the prior incident nor did he hear any officers tell § 87(2)(b) that if he did not cooperate they would notify ACS.

Witness Officer

PO Colin Lawton, of the 40th Precinct, was interviewed at the CCRB on November 13, 2006 [encl. 17a-b]. PO Colin Lawton is a white male who stands 6'0" and is approximately 190 pounds. On June 20, 2005, PO Lawton worked from 7:00 AM to 3:35 PM. He was assigned to the burglary team and was working with PO Gonzalez and PO Vanweddinger. He did not recall if he was in uniform or plainclothes and was assigned an unmarked vehicle. He did not know the RMP number of the vehicle and did not recall what the make and model of the vehicle was. He had no memo book entries regarding the incident [encl. 16a-b].

PO Lawton did not recall what time he went to § 87(2)(b) address, but recalled that he was with PO Gonzalez, PO Vanweddinger, and Lt. Vanhouten. The arresting officer, PO Vanweddinger, had observed § 87(2)(b) on top of a commercial rooftop on a previous tour. The officers went to the location and entered the building. They knocked on his apartment door and he answered. Either PO Vanweddinger or Lt. Vanhouten spoke with § 87(2)(b). PO Lawton stated, "As to who actually physically went inside his apartment, I couldn't tell you." Someone asked him a question and he said "okay." However, there was a "childcare issue." There were two children present at the home. PO Lawton believed the children were under the age of 10. After a couple minutes of conversation with the officers, § 87(2)(b) made a phone call to find an adult to come to the apartment. The officers obliged § 87(2)(b) and allowed him to get a babysitter, because they did not want to take the minors into custody. The officers waited in the hallway for approximately 10 to 15 minutes. § 87(2)(b) stayed in line of sight of the doorway. An unidentified adult came to the apartment. PO Lawton did not recall anything about the adult. PO Lawton stated that the officers allowed § 87(2)(b) to make the arrangements and then step outside into the hallway, because they did not want to arrest § 87(2)(b) in front of his children. § 87(2)(b) stepped out of the apartment and he was placed under arrest without incident. PO Lawton had never seen § 87(2)(b) prior to this date. He was charged § 87(2)(a) 160.50. § 87(2)(b) was being investigated by the burglary team due to information the officers received from two other individuals that stated that § 87(2)(b) was involved in a rooftop commercial burglaries in the precinct.

PO Lawton denied grabbing and pulling § 87(2)(b) out of the apartment and did not witness any other officer do so. No officer stepped inside the apartment. He was not aware of § 87(2)(b) being threatened by officers during the debriefing by notifying ACS. There is no officer who stands 6'9" in his burglary team. § 87(2)(b) was not strip-searched, nor was there a reason to do so. There was no resistance during the arrest.

Police Documents

The Roll Call for the 1st Tour of May 26, 2005 indicates that PO Vanweddinger and PO Gonzalez were working together from 10:00 PM on May 25, 2005 to 4:35 AM on May 26, 2005. They were assigned to the Burglary Apprehension Team [encl. 18a].

The Roll Call for the 2nd Tour of June 20, 2005, identifies PO Vanweddinger, PO Gonzalez, or PO Lawton as members of the Burglary Apprehension Team and it further identifies Capt. Robert Vanhouten as the Special Operations Lieutenant [encl. 18b-c].

The Command Log for May 25, 2005 was not received due to construction at the 40th Precinct stationhouse, so many of the stationhouse's documents were unavailable. Although the command log for the June 20, 2005 incident was later provided, the command log for May 25, 2005 was never received [encl. 22b and 22c].

Criminal Court Documents

PO Jorge Gonzalez provided a supporting deposition for the Criminal Court Complaint concerning the arrest of § 87(2)(b) on May 25, 2005. The narrative of this document was addressed in PO Gonzalez's statement [encl. 13a].

§ 87(2)(a) 160.50

Criminal Conviction History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Complainant and Subject Officer CCRB History

§ 87(2)(b) has not filed any prior CCRB complaints [encl. 6a]. Capt. Robert Vanhouten has one substantiated CCRB case during his 17-year tenure (CCRB #200401499) [encl. 3a]. He was issued a command discipline. PO Christopher Vanweddinger has one substantiated CCRB case during his 9-year tenure (CCRB #9900393) [encl. 4a-b]. The NYPD disposition is unavailable. PO Jorge Gonzalez has no substantiated CCRB cases during his 11-year tenure [encl.5a].

Conclusions and Recommendations

Officer Identification

PO Christopher Vanweddinger and PO Jorge Gonzalez were identified based on the Criminal Court Complaints that were filed concerning the § 87(2)(b) arrests of § 87(2)(b). Although § 87(2)(b) was unable to identify any of the officers by name, he was able to adequately provide the race of the officers who stopped him on May 25, 2005. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) provided the correct races of the officers who arrested him at his home on June 20, 2005, § 87(2)(g). PO Lawton is 6'0" and 180 pounds, but § 87(2)(b) described the officer as 6'9" and 300 pounds. Capt. Vanhouten, who was the Special Operations Lieutenant, confirmed his involvement in the arrest of § 87(2)(b) on June 20, 2005. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Undisputed Facts

May 25, 2005

§ 87(2)(b) was attempting to enter § 87(2)(b) in the Bronx when PO Vanweddinger and PO Gonzalez stopped § 87(2)(b). § 87(2)(b) was questioned and then taken into custody. He was charged § 87(2)(a) 160.50.

June 20, 2005

§ 87(2)(b) was at his apartment, located at § 87(2)(b) in the Bronx, when Capt. Vanhouten, PO Vanweddinger, PO Gonzalez, and PO Lawton came to his door. § 87(2)(b) taken into custody and handcuffed in the hallway just outside his apartment door. He was removed to the stationhouse, where he was debriefed. He was charged § 87(2)(a) 160.50.

Issued in Dispute

May 25, 2005

§ 87(2)(b) § 87(2)(b). PO Gonzalez alleged to have observed § 87(2)(b) entering the building and leaving the building when he failed to gain access passed the second set of doors. PO Vanweddinger stated that he only observed § 87(2)(b) leaving the building. In his letter, § 87(2)(b) indicated that he had rang the doorbell. During his CCRB statement, he made no mention of ever reaching the doorway, but instead, only reached the building itself when officers stopped him. § 87(2)(b) alleged that the officers showed him a flyer with his photograph on it. PO Gonzalez and PO Vanweddinger stated they asked questions concerning the purpose of § 87(2)(b) presence within the building. PO Vanweddinger stated that they did not have flyers with § 87(2)(b) photograph on it, because they only do so when he is “wanted.” On that particular night, he was only a suspect.

June 20, 2005

§ 87(2)(b) alleged that when officers came to his home to arrest him, Capt. Vanhouten asked him to step outside. In his letter, he further stated that Capt. Vanhouten stated that he wanted § 87(2)(b) to step outside, because “[Capt. Vanhouten] didn’t want § 87(2)(b) kids to see this.” PO Vanweddinger, PO Gonzalez, and PO Lawton all confirmed that the officers requested that § 87(2)(b) step out of the apartment, because they did not want § 87(2)(b) family to witness his arrest. § 87(2)(b) then alleged that Capt. Vanhouten grabbed him by the arm and pulled him out of the apartment. All officers interviewed stated that the arrest was unremarkable. § 87(2)(b) stated that he told his children to wake up § 87(2)(b) § 87(2)(b) who was sleeping in the other room. Capt. Vanhouten and PO Lawton stated that there was a childcare issue since they were arresting the supervising adult for the minors in the apartment. Although they did not recall who was summoned, Capt. Vanhouten and PO Lawton stated that an adult was summoned to supervise the minors so that they could properly remove § 87(2)(b). PO Vanweddinger and PO Gonzalez did not recall issues concerning childcare. PO Vanweddinger recalled the approximate age and gender of the female who stayed with the children, but he believed that she had been there from the beginning. § 87(2)(b) stated that Capt. Vanhouten and PO Vanweddinger then entered his apartment and walked through his kitchen and bedrooms. PO Lawton denied that any officers entered the apartment. PO Gonzalez stated that Capt. Vanhouten and PO Vanweddinger entered the apartment, but stayed just inside the doorway. PO Vanweddinger denied entering the apartment. Capt. Vanhouten stated that he along with the other officers entered the apartment and he conducted a walk through of the apartment, for the sole purpose of securing the children.

At the stationhouse, § 87(2)(b) alleged that he was debriefed and PO Vanweddinger threatened to notify ACS. He did not mention this allegation in his written letter. He was later debriefed by a “young Captain,” who also threatened to notify ACS. All officers interviewed did not recall if § 87(2)(b) who debriefed, who conducted the debriefing, or what was said during the debriefing.

Credibility

§ 87(2)(b) provided two statements for this investigation. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) § 87(2)(b) claimed during his CCRB statement that the officers asked if he would be willing to come to the stationhouse to answer some questions, to which he agreed. PO Vanweddinger then began searching § 87(2)(b) which led to § 87(2)(b) to grab PO Vanweddinger’s hand. PO Vanweddinger in response used physical force. His notary account claimed that PO Vanweddinger initiated physical contact after § 87(2)(b) acknowledged his picture on the flyer. § 87(2)(g)

§ 87(2)(b) § 87(2)(b) alleged in his letter that officers had gained entrance by ringing the doorbell of his friend’s apartment. They did not confirm that § 87(2)(b) friend lived in the building, but instead, began checking the walls of the apartment. § 87(2)(b), § 87(2)(g)

In addition, during § 87(2)(b) interview, he stated that the fourth officer who came to his apartment on June 20, 2005, whom the investigation had identified as PO Colin Lawton, stood 6’9” tall and weighed approximately 300 pounds. PO Lawton lists his pedigree at 6’0” and 190 pounds. § 87(2)(b) is 5’8” and 180 pounds. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) PO Gonzalez stated that he observed the individual enter and exit the door to § 87(2)(b) PO Vanweddinger stated he only observed him exit. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) Capt. Vanweddinger and PO Gonzalez stated that officers entered the apartment. PO Vanweddinger and PO Lawton disagreed. Capt. Vanweddinger stated that childcare was an issue. PO Gonzalez and PO Lawton supported that claim. PO Vanweddinger stated that there were no childcare

issues. § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED] Capt. Vanhouten did not recall how § 87(2)(b) stepped outside. § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation A – On May 25, 2005, PO Christopher Vanweddinger stopped and questioned § 87(2)(b)
§ 87(2)(b) [REDACTED]

Allegation B – On May 25, 2005, PO Jorge Gonzalez stopped and questioned § 87(2)(b)
§ 87(2)(b) [REDACTED] is a privately owned building. § 87(2)(a) 160.50 [REDACTED]
[REDACTED] Although § 87(2)(b) did not specify exactly where he was when officers first approached him, he confirmed earlier in his statement that he had been inside the building for the legal purposes of visiting his friend. § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] PO Vanweddinger stated that § 87(2)(b) had been a suspect of an ongoing burglary pattern in the area, which is the reason why he was aware that § 87(2)(b) did not reside in that building. Furthermore, according to PO Gonzalez, § 87(2)(b) was of special interest to the officers, because that building neighbored several commercial establishments that had been broken into. The apartment building § 87(2)(b) was seen exiting from provided access to the rooftops of those commercial buildings. § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Barry Kamin's New York Search and Seizure described a level 2 stop as, "Under the common-law right to inquire, a police officer can intrude upon a person's privacy to a greater degree than when the officer is requesting information...and can obtain explanatory information by means short of forcible seizure" [encl. 2a] § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Allegation C – On May 25, 2005, PO Christopher Vanweddinger strip-searched § 87(2)(b)
Allegation D – On May 25, 2005, PO Jorge Gonzalez strip-searched § 87(2)(b)
§ 87(2)(b) alleged that on May 25, 2005, he was strip searched in the rest room of the stationhouse. The Command Log for May 25, 2005 could not be obtained due to construction at the 40th Precinct stationhouse, § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation E – On June 20, 2005, Capt. Robert Vanhouten supervised the entry of § 87(2)(b) in the Bronx.
§ 87(2)(b) alleged that after he was arrested, officers entered his apartment and began walking through the apartment. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) Absent exigent circumstances, consent, or a search warrant, officers are not permitted to enter and search a private residence. Capt. Vanhouten stated that he was not planning to forcibly enter § 87(2)(b) apartment due to probable cause of a misdemeanor. Capt. Vanhouten confirmed that the officers did not have a warrant. § 87(2)(g) yet officers entered the apartment. Capt. Vanhouten stated that officers entered the apartment and conducted a walkthrough, § 87(2)(b), § 87(2)(g). Capt. Vanhouten stated that his sole purpose for entering the apartment was to ensure the safety of the children.

§ 87(2)(g) based on PD vs. Dowd and Rose, the impropriety of an officer's action does not constitute misconduct unless the officer "was acting improperly, acted without concern for the propriety of his actions, or acted without due and reasonable care that his actions be proper" [encl. 1a-b]. Capt. Vanhouten stated that he entered the apartment due to concern for the children. § 87(2)(b), § 87(2)(g)

PO Lawton testified that there indeed was an effort to provide the minors with appropriate care prior to transporting § 87(2)(b). According to § 87(2)(b) Capt. Vanhouten, after completing his walkthrough, allegedly asked § 87(2)(b) § 87(2)(b) for her phone number so he could check up on the children later. She refused to provide her number. § 87(2)(g)

Furthermore, according to § 87(2)(b) letter, the officers only walked through the kitchen and the children's bedrooms. They did not conduct any sort of search beyond a walkthrough. § 87(2)(b), § 87(2)(g)

Allegation F – On June 20, 2005, PO Christopher Vanweddinger threatened to notify Administration for Children's Services.

§ 87(2)(b) alleged that PO Vanweddinger threatened to notify ACS while at the 40th Precinct stationhouse. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) alleged that an officer who identified himself as the youngest captain in the NYPD, had threatened to notify ACS during § 87(2)(b) debriefing. More specifically, he stated that he would "call ACS...against my wife for having an ex-convicted felon living with her." § 87(2)(g)

According to § 87(2)(b) PO Vanweddinger allegedly stated that if § 87(2)(b) did not cooperate that he was going to call the Administration for Children's Services and inform them that § 87(2)(b) wife and children were living with a convicted felon and ACS would take his children away. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: